Ia. 509, 66 N. W. 776, it was held that in an action based on negligence the particular duty neglected must be distinctly alleged, citing *Railroad Co.* v. *Stark*, 38 Mich. 714.

This rule also appears to obtain in Wisconsin. *Greenman* v. *Chicago & Northwestern R. R. Co.* (1898), 100 Wis. 188, 75 N. W. 998; *Lago* v. *Walsh* (1898), 98 Wis. 348, 74 N. W. 212. But see, *Jones* v. *Burtis* (1894), 88 Wis. 478, 60 N. W. 785, where it was held that a complaint against a physician for malpractice need not allege that it was defendant's duty to act skillfully.

CONFLICT OF LAWS—WILLS—EXECUTION OF POWER.—A testator domiciled in Delaware devised $50,000 in trust for his son, who was to receive the income, and who was given the power to dispose of the principal by will. The son was domiciled in Pennsylvania, where he made a will, disposing of all his "estate, real and personal, of whatever kind, and wheresoever situate." *Held*, (1) That the law of the domicile of the donor of the power governs in determining whether the donee's will is an execution of the power; (2) that the rules of the common law prevail in Delaware, and that under these rules, a will disposing of all his "estate, both real and personal, of whatever kind, and wheresoever situate" is not an execution of the power. *Lane* v. *Lane* (1903), Del. — 55 Atl. Rep. 184.

1. It is well settled, both in this country and in England that questions as to the execution of a power of appointment of personal property are to be decided by the law of the domicile of the donor of the power, and not by the law of the domicile of the donee. *Cotting* v. *De Sartiges*, 17 R. I. 668, 24 Atl. 530, 16 L. R. A. 367; *Sewall* v. *Wilmer*, 132 Mass. 131; *Pouey* v. *Hordern*, [1900], 1 Ch. 492; *In re Megret* [1901], 1 Ch. 547. 2. At common law three classes of cases were held to be sufficient to show an intention to execute the power: (1) where there is some reference to the instrument creating the power; (2) or a reference to the property upon which the power is to be executed, (3) or where the will or other instrument executed by the donee would otherwise be ineffectual. *Denn* v. *Roake*, 6 Bing. 475; *Blagg* v. *Miles*, 1 Story C. C. 426, Fed. Cas. 1479; *Blake* v. *Hawkins*, 98 U. S. 315; *Lee* v. *Simpson*, 134 U. S. 572. This rule, with perhaps only two exceptions, has been followed quite closely in all the states that have not passed statutes on the subject. *Mason* v. *Wheeler* (1895), 19 R. I. 21, 31 Atl. 426, 61 Am. St. Rep. 734; *Bullerdick* v. *Wright* (1897), 148 Ind. 477, 47 N. E. 931; *Turner* v. *Timberlake*, 53 Mo. 371; *Hollister* v. *Shaw*, 46 Conn. 248; *Meeker* v. *Breintnall*, 38 N, J. Eq. 345. The Massachusetts courts refuse to follow the common law rule, because such rule, they say, is likely in a large majority of cases to defeat the intention of the testator. They have adopted, instead, the rule of the English statute of wills. (See below.) *Amory* v. *Meredith*, 7 Allen 397; *Sewall* v. *Wilmer*, 132 Mass. 131; *Hassam* v. *Hazen* (1892), 156 Mass. 93, 30 N. E. 469. In *Emery* v. *Haven* (1893), 67 N. H. 503, 35 Atl. 940, Chase, J., says: "A rule of interpretation that defeats more often than it effectuates the intention of the appointor, is not now enforced in this state." See also *Kimball* v. *Bible Society*, 65 N. H. 139, 23 Atl. 83. In England the common law rule in respect to the execution of powers was changed by the Wills Act, Sec. 27, passed in 1837, which provides that general devises of property shall include all property over which the testator may have the power of appointment, and shall operate as the execution of the power unless a contrary intention shall appear in the will. Similar statutes have been passed in New York, Pennsylvania, Maryland, Kentucky, and probably several other states. An interesting case has recently been decided in England, in which, because of a technicality, the common law rule of construction was

enforced, *In re D'Estes Settlement Trusts* [1903], 1 Ch. 898, 72 L. J. Ch. 305. This decision is criticised by Sir Frederick Pollock in *The Law Quarterly Review*, July, 1903. The learned editor says that the decision may be sound, logically, but that from a practical view it is unsatisfactory, because it is almost certain that it does not give effect to the intention of the testator. See also *In re Price* [1900], 1 Ch. 442, 69 L. J. Ch. 225.

CONSTITUTIONAL LAW—LIBERTY—POLICE POWER—USE OF TRADING STAMPS.—An act of the General Assembly of Virginia, approved Feb. 19th, 1898, prohibited the use of trading stamps and similar devices, which may be used in payment and purchase of, or exchange for articles of merchandise, from any person or corporation, other than the party using the same. Plaintiff in error was convicted for violating this act. *Held*, that the act is void as being in contravention of the liberty guaranteed by Section 1, Amendment 14 of the Constitution of the United States, and cannot be upheld as a police regulation because there is no question of public health, safety or morals involved. *Young* v. *Commonwealth* (1903), — Va. —, 45 S. E. Rep. 326.

The general holding is that statutes prohibiting the use of trading stamps, there being no element of chance, are void. *State* v. *Dalton*, 22 R. I. 77; 46 Atl. Rep. 234; 48 L. R. A. 775; 84 Am. St. Rep. 818. *People* v. *Gillson*, 109 N. Y. 389; 17 N. E. Rep. 343; 4 Am. St. Rep. 465, *Ex parte McKenna*, 126 Cal. 429; 58 Pac. Rep. 916. In *Long* v. *State*, 74 Md. 565, the statute was held invalid so far as it related to gift enterprises not involving chance. In *Lohman* v. *State*, 81 Ind. 15, the statute prohibiting gift enterprise was sustained because of the element of chance in the enterprise. In all these decisions liberty is defined as the right to do such acts, and enter into such contracts as one may judge best for his interest not inconsistent with the equal rights of others. An interesting case holding to the contrary is *Lansburgh* v. *District of Columbia*, 16 App. D. C. 512.

CORPORATIONS—LEGALITY OF VOTING TRUST—POWER TO REVOKE AUTHORITY.—The Fisheries Company is a New Jersey corporation and is the successor of the American Fisheries Company, which was wound up in insolvency. The latter corporation was composed of British and American stockholders, the British being slightly in the majority. By an agreement between the creditors and the stockholders, a committee, composed of three of the British stockholders, was authorized to carry out a scheme of reorganization. Shares of stock in the new corporation, were issued in place of the certificates of stock in the old company, those of the British holders being issued in a block to the Committee for convenience in distribution. The committee at this stage, decided to form a pool or trust of all stock held in Great Britain, intending to have this stock voted in a solid block, and thus secure the management of the corporation to the British stockholders. Circular letters in regard to this were sent to the British shareholders, with blank consents to be signed by them. The management was to remain in the committee and four others to be selected by them. Nothing was said as to the duration of this voting trust, or of the right to revoke a consent. Upon receiving the consents, the committee conveyed the stock, of which it still had the legal title, to a holding corporation organized for this purpose, with absolute power, as trustee, to vote the stock as it should see fit for fifty years. This power was declared to be revocable only by a three-fourths vote of the consenting shareholders.

The complainants are American stockholders, who in addition to the stock which they hold in their own names, have purchased the rights of some